

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

FALCON INDUSTRIES, INC.,

Plaintiff,

v.

CIV No. 12-679 JCH/GBW

COMBAT OPTICAL, INC. *et al*,

Defendants.

ORDER GRANTING IN PART DEFENDANTS' MOTION TO STAY

This matter is before the Court on Defendants' Motion to Stay. *Doc.* 97. The Court held a hearing on the motion on June 4, 2014. *Doc.* 126. Having considered the briefing (*docs.* 97, 105), the arguments presented by counsel at the hearing, and the relevant law, the Court will GRANT the stay subject to the exemptions outlined below.

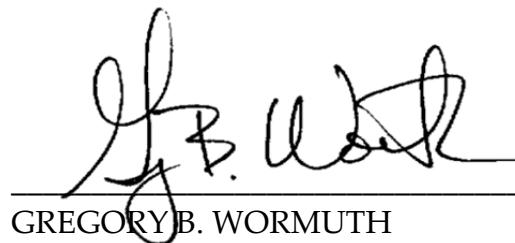
Defendants Gun Rifle Gear (GRG) and Haldo, Inc. filed their Motion to Stay on May 6, 2014. *Doc.* 97. Defendants informed the Court that they had submitted an *Ex Parte* Request for Reexamination of the patent at issue in this case with the United States Patent & Trademark Office (USPTO). They contend that a stay is appropriate because, “[i]f the reexamination results in the USPTO rejecting or canceling some or all of the asserted claims, this litigation will end or at least be narrowed.” *Doc.* 97 at 2.

At the Motion Hearing, Plaintiff withdrew his opposition to a stay, to continue through the completion of the USPTO reexamination proceedings, with the following exemptions:

- The stay will not apply to any discovery requests that have already been served and are currently outstanding;
- The stay will not affect the briefing schedules or rulings on the Motion for Default Judgment or the Motion to Set Aside Default;
- The stay will not affect briefing on the Motion to Strike;
- The stay will not prohibit any unopposed motions to dismiss claims, counterclaims, or defenses; and
- The Court will permit Plaintiff to issue subpoenas for sales records from Amazon.

The Court therefore GRANTS IN PART Defendants' Motion to Stay (*doc. 97*), subject to the conditions set forth above.

IT IS SO ORDERED.



GREGORY B. WORMUTH
UNITED STATES MAGISTRATE JUDGE